

for Type A testing at this time. Therefore, application of the regulation in this particular circumstance would not serve, nor is it necessary to achieve, the underlying purpose of the rule.

IV

Section III.D.1.(a) of Appendix J to 10 CFR Part 50 states that a set of three Type A leakage rate tests shall be performed at approximately equal intervals during each 10-year service period.

The licensee proposes an exemption to this section which would provide a one-time interval extension for the Type A test by approximately 24 months. The Commission has determined, for the reasons discussed below, that pursuant to 10 CFR 50.12(a)(1) this exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security. The Commission further determines that special circumstances, as provided in 10 CFR 50.12(a)(2)(ii), are present justifying the exemption; namely, that application of the regulation of the particular circumstances is not necessary to achieve the underlying purpose of the rule.

The underlying purpose of the requirement to perform Type A containment leak rate tests at intervals during the 10-year service period, is to ensure that any potential leakage pathways through the containment boundary are identified within a time span that prevents significant degradation from continuing or becoming unknown. The NRC staff has reviewed the basis and supporting information provided by the licensee in the exemption request. The NRC staff has noted that the licensee has a good record of ensuring a leaktight containment. All Type A tests have passed with significant margin and the licensee has noted that the results of the Type A testing have been confirmatory of the Type B and C tests which will continue to be performed. The licensee has stated to the NRC Project Manager that they will perform the general containment inspection although it is only required by Appendix J (Section V.A.) to be performed in conjunction with Type A tests. The NRC staff considers that these inspections, though limited in scope, provide an important added level of confidence in the continued integrity of the containment boundary. The NRC staff also notes that the unique IP2 Containment Penetration and Weld Channel Pressurization System provides a means for continuously monitored potential containment leakage paths.

The NRC staff has also made use of the information in a draft staff report, NUREG-1493, which provides the technical justification for the present Appendix J rulemaking effort which also includes a 10-year test interval for Type A tests. The integrated leakage rate test, or Type A test, measures overall containment leakage. However, operating experience with all types of containments used in this country demonstrates that essentially all containment leakage can be detected by local leakage rate tests (Type B and C). According to results given in NUREG-1493, out of 180 ILRT reports covering 110 individual reactors and approximately 770 years of operating history, only 5 ILRT failures were found which local leakage rate testing could not detect. This is 3% of all failures. This study agrees well with previous NRC staff studies which show that Type B and C testing can detect a very large percentage of containment leaks. The IP2 experience has also been consistent with these results.

The Nuclear Management and Resources Council (NUMARC), now the Nuclear Energy Institute (NEI), collected and provided the NRC staff with summaries of data to assist in the Appendix J rulemaking effort. NUMARC collected results of 144 ILRTs from 33 units; 23 ILRTs exceeded $1.0L_a$. Of these, only nine were not due to Type B or C leakage penalties. The NEI data also added another perspective. The NEI data show that in about one-third of the cases exceeding allowable leakage, the as-found leakage was less than $2L_a$; in one case the leakage was found to be approximately $2L_a$; in one case the as-found leakage was less than $3L_a$; one case approached $10L_a$; and in one case the leakage was found to be approximately $21L_a$. For about half of the failed ILRTs the as-found leakage was not quantified. These data show that, for those ILRTs for which the leakage was quantified, the leakage values are small in comparison to the leakage value at which the risk to the public starts to increase over the value of risk corresponding to L_a (approximately $200L_a$, as discussed in NUREG-1493). Therefore, based on these considerations, it is unlikely that an extension of one cycle for the performance of the Appendix J, Type A test at IP2 would result in significant degradation of the overall containment integrity. As a result, the application of the regulation in these particular circumstances is not necessary to achieve the underlying purpose of the rule.

Based on generic and plant specific data, the NRC staff finds the basis for

the licensee's proposed exemption to allow a one-time exemption to permit a schedular extension of one cycle for the performance of the Appendix J, Type A test, provided that the general containment inspection is performed, to be acceptable.

Pursuant to 10 CFR 51.32, the Commission has determined that granting this Exemption will not have a significant impact on the environment (60 FR 12787).

This Exemption is effective upon issuance and shall expire at the completion of the 1997 refueling outage.

Dated at Rockville, Maryland, this 8th day of March 1995.

For the Nuclear Regulatory Commission.

Steven A. Varga,

*Director, Division of Reactor Projects—I/II,
Office of Nuclear Reactor Regulation.*

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RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

SUMMARY: In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the Railroad Retirement Board has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

SUMMARY OF PROPOSAL(S):

- (1) *Collection title:* Withholding Certificate for Railroad Retirement Monthly Annuity Payments
- (2) *Form(s) submitted:* RRB W-4P
- (3) *OMB Number:* 3220-0149
- (4) *Expiration date of current OMB clearance:* April 30, 1995
- (5) *Type of request:* Revision of a currently approved collection
- (6) *Respondents:* Individuals or households
- (7) *Estimated annual number of respondents:* 31,000
- (8) *Total annual responses:* 31,000
- (9) *Total annual reporting hours:* 1
- (10) *Collection description:* Under Public Law 98-76 railroad retirement beneficiaries' Tier 2, dual vested and supplemental benefits are subject to income tax under private pension rules. Under Public Law 99-514, the non-social security equivalent benefit portion of Tier 1 is also taxable under private pension rules. The collection obtains the information needed by the Railroad Retirement Board to implement the income tax withholding provisions.

ADDITIONAL INFORMATION OR COMMENTS:

Copies of the form and supporting documents can be obtained from Chuck Mierzwa, the agency clearance officer (312-751-3363). Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611-2092 and the OMB reviewer, Laura Oliven (202-395-7316), Office of Management and Budget, Room 10230, New Executive Office Building, Washington, D.C. 20503.

Chuck Mierzwa,

Clearance Officer.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-35471; File No. SR-NASD-95-9]

Self-Regulatory Organizations; Notice of Proposed Rule Change by National Association of Securities Dealers, Inc., Relating to the Trading of Exchange-Listed Securities in the Over-the-Counter Market

March 10, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on March 6, 1995, the National Association of Securities Dealers, Inc. ("NASD" or "Association") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NASD.¹ The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NASD is proposing to make three significant changes to rules governing NASD members' over-the-counter ("OTC") trading in exchange-listed securities. First, the NASD proposes to require NASD members registered as Consolidated Quotations Service ("CQS") market makers to display certain customer limit orders in their quotes. Second, the NASD proposes to prohibit NASD members who are not

Intermarket Trading System/Computer Assisted Execution System Automated Interface ("ITS/CAES") market makers from effecting a transaction in any ITS/CAES-eligible security that "trades-through" (i.e., a purchase below the lowest bid or a sell above the highest offer) the best bid or offer displayed by any ITS/CAES market maker or any ITS Participant Exchange in that stock. Third, the NASD proposes to require all NASD members executing customer orders in ITS-eligible securities to afford such orders some opportunity for price improvement.

The full text of the proposed rule change is set forth below. (New language is italicized.)

Schedule D

PART VI

CONSOLIDATED QUOTATIONS SERVICE (CQS)

Sec. 2. Obligations of CQS Market Makers

- (a) No Change
- (b) No Change
- (c) A CQS market maker shall be required to process customer limit orders in securities eligible for inclusion on the ITS/CAES linkage in the following manner:
 - (i) if the limit order is for 500 shares or less, the CQS market maker either must execute the limit order immediately or display it in its quotation with a minimum size of 500 shares (unless the specified minimum for that security is less than 500 shares); or
 - (ii) if the limit order is for greater than 500 shares, the order's price must be reflected in the market maker's quotation, provided however, that if the size displayed with that updated quotation price is less than the limit order's size, the balance of the limit order must be executed at a price at least as favorable as the displayed price.

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Schedule G

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Sec. 1. Definitions

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(g) The terms "Participant Market," "ITS System," "ITS/CAES Market Maker," and "ITS Security" shall have the same meanings as set forth in section (a) of The Rules of Practice and Procedure for Intermarket Trading System/Computer Assisted Execution System Automated Interface.

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Sec. 4. Trading Practices

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(j) No member shall effect a trade in a security eligible for inclusion in the ITS/CAES Linkage, whether as principal or agent, at a price that is lower than the best bid or higher than the best offer currently displayed by an ITS/CAES Market maker or another Participant market (hereinafter referred to as a "trade-through") between 9:30 a.m. and 4:00 p.m. Eastern Standard Time (or such shorter period of time coinciding with the

time that the primary market for a particular ITS/CAES security is open) unless one of the following conditions exists: (1) the size of the bid or offer that is traded through is for 100 shares; (2) the transaction that constitutes the trade-through is not a "regular way" contract; (3) the bid or offer that is traded-through is being displayed from a Participant Market whose members are relieved of their obligations under paragraph (c)(2) of Securities Exchange Act Rule 11Ac1-1 with respect to such bid or offer; or (4) the bid or offer that is traded-through has caused a locked or crossed market in the affected ITS Security. The foregoing requirements shall not apply to trade-throughs effected by ITS/CAES Market Makers and governed by Sections (h)(1)(A)-(H) of the ITS/CAES Rules.

(k) Between 9:30 a.m. and 4:00 p.m. Eastern Standard Time (or such shorter period of time coinciding with the time that the primary market for a particular ITS-eligible security is open), no member shall accept customer orders in securities eligible for inclusion in the ITS System for execution in the over-the-counter market, either as agent or principal, unless the member affords such orders some opportunity for price improvement over the best bid (in the case of a retail sell order) or best offer (in the case of a retail buy order) prevailing among the Participant Markets in the ITS System. A member can satisfy this requirement either by a manual procedure or an algorithm built into its internal order processing system. The specific parameters for granting price improvement at a member firm will be determined by competitive forces and the business judgment of the firm's management.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NASD included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NASD has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

This proposal is intended to respond to specific recommendations contained in the SEC's Market 2000 Report for improving the efficiency and effectiveness of the OTC dealer markets in exchange-listed securities, including ITS/CAES eligible securities.² The

¹ The NASD originally submitted the proposed rule change on February 21, 1995. As a result of discussions on March 6, 1995, between the Commission staff and the NASD certain minor amendments to the filing were agreed upon. This notice reflects those amendments.

² Operation of ITS/CAES is governed by a national market system plan known as the "Plan for the Purpose of Creating and Operating an Intermarket Communications Linkage pursuant to